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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/602,168

06/24/2003

George W. Erhart

502073-A-01-US (Erhart)

9438

47702 7590 07/02/2007  
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EXAMINER

GAUTHIER, GERALD

ART UNIT

PAPER NUMBER

2614

MAIL DATE

DELIVERY MODE

07/02/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/602,168

Applicant(s)

ERHART ET AL.

Examiner

Gerald Gauthier

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment*

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### *Claim Rejections - 35 USC § 101*

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claim(s) 18** is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. "An article of manufacture" is not the proper language to use with a machine. A machine must be specified to make the claim statutory. The claimed invention is directed to a judicial exception to 35 U.S.C. 101 (i.e., an abstract idea, natural phenomenon, or law of nature) and is not directed to a practical application of such judicial exception.

**Claim(s) 1-17 and 19-25** are rejected under 35 U.S.C. 101 because the machine is executed the method claims.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. **Claim(s) 1-10, 12-22, 24 and 25** are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (US 6,175,822 B1) in view of MacGinite et al. (US 6,766,294 B2).

Regarding **claim(s) 1**, Jones discloses a method for validating a textual entry of spoken words of a caller (column 1, lines 19-22), comprising:

receiving a telephone call from said caller (column 7, lines 48-57);  
obtaining a textual entry of said spoken words from a call agent (column 8, line 65 to column 9, line 7).

Jones fails to disclose converting said spoken words to text using a speech recognition technique.

However, MacGinite teaches converting said spoken words to text using a speech recognition technique to generate converted text (column 11, lines 10-19); and

comparing said textual entry to said converted text to confirm an accuracy of said textual entry substantially during said telephone call (column 11, lines 33-57).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the system of Jones using the teaching of speech recognition system as taught by MacGinite.

This modification of the invention enables the system to convert said spoken words to text using a speech recognition technique so that the system would compare the text to the transcription text.

Regarding **claim(s) 2**, MacGinite teaches a method, further comprising the step of recording the spoken words (column 10, lines 42-52).

Regarding **claim(s) 3**, MacGinite teaches a method, further comprising the step of time-stamping the recording (column 10, lines 42-52).

Regarding **claim(s) 4, 13 and 20**, MacGinite teaches a method, further comprising the step of constraining the comparing step to a recent audio stream (column 10, lines 53-65).

Regarding **claim(s) 5**, MacGinite teaches a method, further comprising the step of constraining the comparing step to a recent audio stream corresponding to a completed field in a user interface (column 10, lines 53-65).

Regarding **claim(s) 6**, MacGinite teaches a method, further comprising the step of constraining the comparing step to a recent audio stream since a previous field was completed (column 10, lines 53-65).

Regarding **claim(s) 7, 14, 21, 24 and 25**, MacGinite teaches a method, further comprising the step of notifying an agency of an error (column 11, lines 10-19).

Regarding **claim(s) 8 and 15**, MacGinite teaches a method, further comprising the step of correcting a detected error (column 11, lines 10-19).

Regarding **claim(s) 9 and 16**, MacGinite teaches a method, further comprising the step of suggesting at least one alternative for a detected error (column 11, lines 10-19).

Regarding **claim(s) 10 and 17**, MacGinite teaches a method, further comprising the step of selecting the speech recognition technique based on properties of the spoken words (column 10, lines 53-65).

Regarding **claim(s) 12**, Jones discloses an apparatus for validating a textual entry of spoken words of a caller (column 1, lines 19-22), comprising:

- a memory (16 on FIG. 1); and
- at least one processor, coupled to the memory (14 on FIG. 1), operative to:
  - receive a telephone call from said caller (column 7, lines 48-57);
  - obtain a textual entry of said spoken words from a call agent (column 8, line 65 to column 9, line 7).

Jones fails to disclose converting said spoken words to text using a speech recognition technique.

However, MacGinitie teaches convert said spoken words to text using a speech recognition technique to generate converted text (column 11, lines 10-19); and

compare said textual entry to said converted text to confirm an accuracy of said textual entry substantially during said telephone call (column 11, lines 33-57).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the system of Jones using the teaching of speech recognition system as taught by MacGinitie.

This modification of the invention enables the system to convert said spoken words to text using a speech recognition technique so that the system would compare the text to the transcription text.

Regarding **claim(s) 18**, Jones discloses an article of manufacture for validating a textual entry of spoken words of a caller, comprising a machine readable medium containing one or more programs (column 1, lines 19-22) which when executed on a machine implement the steps of:

receiving a telephone call from said caller (column 7, lines 48-57);

obtaining a textual entry of said spoken words from a call agent (column 8, line 65 to column 9, line 7).

Jones fails to disclose converting said spoken words to text using a speech recognition technique to generate converted text (column 11, lines 10-19); and

comparing said textual entry to said converted text to confirm an accuracy of said textual entry substantially during said telephone call (column 11, lines 33-57).



Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the system of Jones using the teaching of speech recognition system as taught by MacGinitie.

This modification of the invention enables the system to convert said spoken words to text using a speech recognition technique so that the system would compare the text to the transcription text.

Regarding **claim(s) 19** Jones discloses a method for validating a spoken delivery of a textual script (column 1, lines 19-22), comprising:

obtaining a spoken delivery of said textual script by a call agent(column 8, line 65 to column 9, line 7).

Jones fails to disclose converting said spoken delivery to text using a speech recognition technique to generate converted text (column 11, lines 10-19); and

comparing said textual script to said converted text to confirm an accuracy of said spoken delivery substantially during said spoken delivery of said textual script (column 11, lines 33-57).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the system of Jones using the teaching of speech recognition system as taught by MacGinitie.

This modification of the invention enables the system to convert said spoken words to text using a speech recognition technique so that the system would compare the text to the transcription text.

Regarding **claim(s) 22**, MacGinite teaches the step of selecting the speech recognition technique based on properties of the textual script (column 10, lines 53-65).

7. **Claim(s) 11 and 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones in view of MacGinite and in further view of Epstein (US 6,754,626 B2).

Regarding **claim(s) 11**, Jones in combination with MacGinite as applied to **claim(s) 1** above differs from **claim(s) 11** in that it fails to disclose the accuracy is confirmed by comparing a confidence score to a threshold value.

However, Epstein teaches a method, wherein the accuracy is confirmed by comparing a confidence score to a threshold value (FIG. 6 and column 13, lines 5-17) [The speech recognition system can identify text with a confidence score above a predetermined minimum threshold value].

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the speech recognition system of Jones using the teaching of recognition system as taught by Epstein.

This modification of the invention enables the system to generate a confidence score to a threshold value so that the system would identify one contextual model producing text.

Regarding **claim(s) 23**, Epstein in the same field of endeavor teaches a method for validating a spoken delivery of a textual script, wherein the accuracy is confirmed by comparing a confidence score to a threshold value (FIG. 6 and column 13, lines 5-17).

### ***Response to Arguments***

8. Applicant's arguments with respect to **claim(s) 1-25** have been considered but are moot in view of the new ground(s) of rejection.


### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2614

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Gerald Gauthier  
Primary Examiner  
Art Unit 2614

GG  
June 4, 2007